

South Dakota Public Utilities Commission Meeting
Tuesday, June 5, 2007, at 9:30 A.M.
State Capitol Building, Room 412
Pierre, South Dakota

MINUTES OF THE COMMISSION MEETING

Chairman Dustin Johnson called the meeting to order. Present were: Vice Chairman Gary Hanson; Commissioner Steve Kolbeck; Executive Director Patty Van Gerpen; Deputy Executive Director Heather Forney; Commission Advisor Greg Rislov; Commission Attorney John Smith; Staff Attorneys Karen Cremer and Kara Van Bockern; Staff Analysts Keith Senger, Harlan Best, and Bob Knadle; Consumer Affairs Supervisor Deb Gregg; and Administrative Secretary Demaris Axthelm.

Also present were: Bob Miller, representing South Dakota Electrical Utility Companies; Rod Bowar, Kennebec Telephone Company, Inc.; and Dave Gerdes, May Adam, Gerdes and Thompson, representing TransCanada Keystone Pipeline, LP and Level 3 Communications, LLC.

Joining the meeting by telephone were: Commission Attorney Rolayne Wiest; Colleen Sevold and Jason Topp, Qwest Corporation; Richard Thayer, Level 3 Communications, LLC; Meredith Moore, Cutler & Donahoe, representing Interstate Telecommunications Cooperative, Inc; and Talbot Wieczorek, Gunderson, Palmer, Goodsell & Nelson, representing Sprint Communications Company L.P.

Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission. (Consumer Affairs: Deb Gregg)

Ms. Deb Gregg reported that the Commission had received a total of 73 contacts. Since the last report was prepared for the May 22, 2007 Commission meeting, 9 contacts involved telecommunications services; 19 contacts involved electricity issues; 7 contacts involved natural gas issues; 7 contacts involved cellular phone issues; 21 contacts involved Do Not Call Registry; and 10 contacts involved issues not regulated by the Public Utilities Commission. In 2007, 978 of the 1,119 complaints registered have been resolved informally. In 2006, 2,256 of the 2,466 complaints registered have been resolved informally.

Hydrocarbon Pipeline

1. HP07-001 In the Matter of the Application of TransCanada Keystone Pipeline, LP for a Permit under the South Dakota Energy Conversion and Transmission Facility Act to Construct the Keystone Pipeline Project. (Staff Analysts: Martin Bettmann/Bob Knadle/Nathan Solem, Staff Attorney: Kara Van Bockern)

Ms. Kara Van Bockern stated that the final public input hearings regarding Docket HP07-001 will be held June 27, 2007, and the intervention deadline is set for June 26, 2007. Due to the overlapping time frames, staff asked the Commission to extend the intervention deadline to July 10, 2007, to give owners adequate time to attend the public input hearings and to gain a better understanding of the project before deciding if they would like to intervene. Mr. Dave Gerdes, representing TransCanada Keystone Pipeline, LP, (Keystone) stated that Mr. Koenecke and Ms. Van Bockern have discussed extending the intervention deadline and Keystone has no objections.

Chairman Johnson moved to extend the intervention deadline to July 10, 2007, as recommended by staff. Motion passed 3-0

Telecommunications

- 1. TC06-007 In the Matter of the Petition of Level 3 Communications, LLC for Arbitration of an Interconnection Agreement with Qwest Corporation. (Commission Attorney: Rolayne Ailts Wiest)**

Mr. Richard Thayer, representing Level 3 Communications, LLC (Level 3) asked the Commission to order Qwest to bring its Statement of General Available Terms (SGAT) up-to-date and to follow a public process. Mr. Jason Topp, representing Qwest, stated that it did not understand Level 3's proposal or Qwest would have opposed Level 3's Motion to withdraw its Petition and would have terminated the arbitration proceedings due to the fact that Level 3 did not want the documents that Qwest had made available and wanted to opt into an SGAT. Mr. Topp also stated that Qwest's South Dakota SGAT is out-of-date and does not believe that it is legally required to maintain a SGAT. Mr. Topp asked that Qwest be able to file additional comments. Ms. Kara Van Bockern stated that staff recommends that Qwest be able to respond and state its position. Mr. Dave Gerdes, representing Level 3, stated it is asking Qwest where the other components of the SGAT are and that Qwest should identify them. Chairman Johnson asked if there are any parts of the Act that would require Qwest to maintain an up-to-date SGAT. Mr. Topp responded to Chairman Johnson by stating that Qwest does not believe that under Section 251 that it is required to have an SGAT in place. Mr. Topp stated that you are allowed to opt in within a reasonable amount of time, and Qwest feels that Level 3 has gone beyond the reasonable time. Mr. Thayer stated that Qwest is required under Section 271 to maintain an up-to-date SGAT until the Commission allows them to withdraw it or until the Commission deems it ineffective. Mr. Thayer also stated that no where in the law is there a time limit to opt into an agreement. Ms. Rolayne Wiest stated that she would like to hear more legal arguments from Qwest and then would give Level 3 a chance to respond.

Chairman Johnson moved that the parties work together with staff and Commission Counsel to develop a procedural schedule to further brief the issues discussed. Motion passed 3-0

- 2. TC07-018 In the Matter of the Application of First Choice Technology, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota. (Staff Analysts: Nathan Solem/Harlan Best, Staff Attorney: Karen Cremer)**

Mr. Nathan Solem stated that on April 4, 2007, First Choice Technology, Inc. filed an application for a Certificate of Authority to provide interexchange telecommunications services throughout South Dakota. Mr. Solem further stated that the applicant intends to provide 1 plus dialing, inbound toll free calling, directory assistance and postpaid calling card services. The applicant has agreed to restrictions from offering any prepaid services and from collecting customer deposits or advance payments. The applicant has met the requirements for the granting of a Certificate of Authority. Therefore, staff recommended the Commission issue First Choice Technology, Inc. an Interexchange Certificate of Authority subject to restrictions from offering any prepaid services and from collecting customer deposits or advance payments, without prior approval of the Commission.

Commissioner Kolbeck moved that the Commission grant a Certificate of Authority to First Choice Technology subject to the restrictions recommended by staff. Motion passed 3-0

- 2. In the Matter of the Request for Certification Regarding the Use of Federal Universal Service Support in Dockets TC07-023, TC07-024, TC07-025, and TC07-028**

TC07-023 In the Matter of the Request of Interstate Telecommunications Cooperative, Inc. for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best stated that staff has reviewed the filing and recommends that the Commission issue letters to the FCC and the USAC granting the request of certification.

Chairman Johnson moved to certify the use of USF funds in Docket TC07-023. Motion passed 3-

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TC07-024 In the Matter of the Request of Stockholm-Strandburg Telephone Company d/b/a ITC for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best stated that Stockholm-Strandburg Telephone Company d/b/a ITC has filed its certification request and has answered questions from staff that were filed as confidential. Staff recommended that the Commission issue letters to the FCC and the USAC granting the request of certification.

Commissioner Kolbeck moved to certify the use of USF funds in Docket TC07-024. Motion passed

3-0

TC07-025 In the Matter of the Request of SSTELECOM, Inc. d/b/a ITC for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best stated that the Company did not disclose in the filing if they were offering a comparable local issue plan to the incumbent and since have responded. Staff recommends that the Commission issue letters to the FCC and the USAC granting the request of certification.

Commissioner Kolbeck moved to certify the use of USF funds in Docket TC07-025. Motion passed 3-0

TC07-028 In the Matter of the Request of Kennebec Telephone Company, Inc. for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best recommended that the Commission issue letters to the FCC and the USAC granting the request of certification

Commissioner Hanson moved to certify the use of USF funds in Docket TC07-028. Motion passed 3-0

3. TC07-027 In the Matter of Filing by South Dakota Network, LLC for Approval of Revisions to its Access Service Tariff. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Ms. Karen Cremer stated that she has spoken with Ms. Darla Rogers, representing South Dakota Network, LLC (SDN) and Ms. Rogers has stated that SDN is requesting a deferral.

Chairman Johnson moved that a deferral be granted in Docket TC07-027. Motion passed 3-0

**ADDENDUM TO THE
AGENDA OF COMMISSION MEETING**

Consumer Complaints

1. CE07-002 In the Matter of the Complaint filed by Erica Voss, Mitchell South Dakota, against NorthWestern Energy Regarding Utility Service Refusal. (Staff Analyst: Deb Gregg, Staff Attorney: Kara Van Bockern)

Ms. Kara Van Bockern stated that she has spoken with Ms. Erica Voss and all issues have been resolved and Ms. Voss has asked for this complaint to be dismissed. Staff recommends that the Commission dismiss the complaint and close Docket CE07-002. Mr. Dave Gerdes, representing NorthWestern Energy, agreed that dismissal was appropriate.

Commissioner Kolbeck moved to dismiss the complaint and close Docket CE07-002. Motion passed 3-0

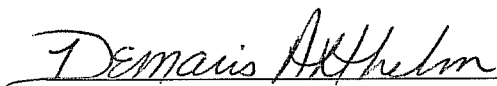
Telecommunications

1. TC06-175 In the Matter of the Petition of Sprint Communications Company L.P. for Arbitration pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to an Interconnection Agreement with Interstate Telecommunications Cooperative, Inc. (Staff Analyst: Harlan Best, Staff Attorney: Kara Van Bockern)

Ms. Meredith Moore, representing Interstate Telecommunications Cooperative, Inc. (ITC) stated that there are negotiations between ITC and Sprint Communications Company L.P. for a business resolution. Ms. Kara Van Bockern recommended that the Commission grant the joint motion for delay.

Chairman Johnson moved to grant the joint motion for delay. Motion passed 3-0

Meeting adjourned.


Demaris Axthelm
Administrative Secretary